Contract of Sale for New York office, comparelyt and multi-temply partiential premises

Contract of Sale—Office, Commercial and Multi-Family Residential Premises

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Section 17. Miscellancous provisions
                                                                                                                                                Signatures and receipt by exemivee
                               CONTRACT dated April
                       358 BROADWAY LLC c/o Brill & Meisel
                        845 Third Avenue
                        New York, New York 10022
                        Attn: Mark N. Axinn, Esq.
 ("Seller") and 358 BROADWAY-FRANKLIN ACQUISITION, LLC
                        c/o Alter Mantell, LLP
                        90 Park Avenue
                       New York, New York 10016
                       Attn: Irving D. Alter, Eaq.
  ("Purchaser").
  Seller and Purchaser hereby covenant and agree as follows:
                                                                                                            Schedule A
DESCRIPTION OF FREMISES
 The Promises are located et or known as 358 Broadway, New York, New York o/K/a Sy Franklin Street
  Tax Man Designation;
                                            , Block: 171
 motos and bounds description attacked hereta)
                                                                                                               PERMITTED EXCEPTIONS

    Zoning regulations and ordinances which are not violated by the existing structures or present use thereof and which do not
render ditte unitability.

                    2. Consents by the Sollor or any former awant of the Premises for the exection of any structure or atructures on, under or
 above any street or streets on which the Promises may abut.
                             Control and Tenencies specified in the Rent Schedule and any receipt and Tenencies specified in the Rent Schedule and any research the Rent Schedule and any
4. Lengta and Tenmeios specified in the Rant Schedule and his law leaves towards not profithing the fill contained.

5. Unpaid installments of assessments not due and payable on or before the Closing Date.

6. Financing statements, chattel mortgages and items on personalty filed more than 5 years prior to the Closing Date and not renewed, or filed against property or sculpment no longer located on the Frenties of owned by Tenants, provided for the series in the company of the Against property or sculpment no longer located on the premises, provided that note of such rights imposes any monetary obligation on the owner of the Premises. and all, easements and agreements of record relating theretoes affected horsef.

(b) Eneronedments also property on the Premises are any street on highway or over any sdjoining property and encroachments of similar elements projecting from adjoining property over the Premises.

(c) Revealability or lack of right to maintain vaults, coal chutes, excavations or sub-surface equipment beyond the line of the framiscs.
(d) Any state of facts that an accurate survey would disclose, provided that such facts do not render title authorized the purposes of this contract, none of the facts shown on the survey, if any, identified below shall be decired to render title unmarketable, and Purchaser shall accept title subject thereto;
Survey made by Earl B. Lovell, Inc., dated 6/5/40 and survey for location of possession along the westerly line made by Earl B. Lovell-S.P. Belcher, Inc., dated 10/29/65, both of which were last re-dated by
visual examination made by Harwood Surveying, P.C., dated 8/15/2003.

(e) Covenants, easements, restrictions, agreements, consents, and other agreements, if any, of record, provided they do not percent interfere with the continued use and maintenance of the Premises or conversion the rest to Condomining.
                                        (f) Minor variations, if any, between tax lot and property lines.
 (g) Standard exceptions and provisions contained in ALTA form employed by the title insurer Which are not fermitted by law to be removed
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(h) All violations of laws, ordinances, exdens, rules, regulations moved or issued by any governmental office, department or authority, whether, before, or or after the date hereof.

Sepanule C PURCHASE PRICE

Pinte	Princhage Price shall be paid as follows: (a) By cleak subject to collection, the receipt of which is horeby acknowledged by Selles of the State of the Cleating in accordance with the provisions of §2. (c) By acceptance of title subject to the following Existing Marigage(s): (d) By execution and delivery to Seller by Purchaser or its seeigned of a note secured by a scheme Majney Mortgage on the Premises, in the sum of subject as follows:	2.000.000.00 02: \$15.500.000.00 \$
Mnk	king for a lotal Purchase Prica of:	<u> </u>
	Schedule D MISCRILANROUS	
	New York Leaged Services 1. Title insurer designated by the parties (§1.02): The Judical Title paymage Se.	
,	2. Lost date for consent by Existing Mortgagee(a) (§2.03(b)): N/A	
	3. Maximum Interest Rate of any Refinanced Marigage (42.04(b)): N/A	
	4. Propayment Date on or after which Purchase Money Morigage may be prepaid (§2.04(c)): N	/Å
	5. Soller's tax identification number(s) (\$2.05) 13-3993612	_
	6. Purchaser's tax Identification number(s) (§2.05);	
	7. Scheduled time and date of Closing (§3.01): April 30, 2007 at 10:00 a	s.m.
	8. Place of Cinning (\$3.01): 845 Third Avenue, 16th Floor, New Y furctiones lender or such fender's Counsel in New 9. Assessed valuation of Fremines (\$4.10): \$1,512,000.00	cork, New York or office of
	10. Fisoni year and manual mai estato taxos on Premises (§4,10): 2004/05: \$119.83	
	11, Tax abatements or exemptions affecting Premises (\$4.10): NONE	
-5-	12, Assessments on Premises (§4.13); DUR, NONE	
	13. Maximum Amount which Suller must spend to care Violations, etc. (\$7.02): \$50,000 . 0	·
	14. Maximum Expanse of Saller to our title defects, etc. (§13,02); \$200,000.00	
	15. Stroker, If Bray (§14.01) NONE	
	16. Party to pay braker's commission (§14.01): NONE 17. Address for notices (§15.01): If to Seller,	
	c/o Joel Rosen, CPA, P.C. 7 Penn Pisza, Suite 222 New York, New York 10002 Fax: 2/2 -695-7 with a copy to:	402
	Mark N. Axina, Esq. Brill & Meisel If to Furchmen 845 Third Avenue, New York, New York Go Fice Equifies LLC 1579 SUTA Street Brooklyn, No living Fax: 718-437-25; with a copy to: Irving D. Alter, Esq.	
	Alter Mentel, LLP 90 Park Avenue, New York, New York 18. Limitation Date for actions based on Sollar's surviving representations and other abiligations (§	k 10016 Fax 212-953-5061
	19. Additional Schedules of Rittors (§17.07):	$\mathcal{P}^{\mathcal{E}}$
	Schedule B RENT MARROULE (Elif checked, annexed horsto)	
* The \$1,	e downpayment shall be payoble in the contract.	to paragraph 21
Re	coupt of the first installment payor	wat of \$1,000,000.00
	Shereby acknowledged:	
	By: Much My	
	Partner	

togetherwiall stripes regard

443m4

Section 1. Sale of Premises and Acceptable Title

\$1.01. Soller shell sell to Purefinson and Purchases

\$1.01. Soller shell sell to Pure inser, and Purchaser shall purchase from Soller, at the pice and tipon the terms and conditions set forth in this contract:

(a) the purcel of Ind more particularly described in Schedulin A standed horston (*Land");

(b) all hulldings out improvements situated on the Land (collectively, "Buildings");

(c) all right, title said interest of Sollor, if any, in and to the land tying in the bad of any street or highway in from of or adjoining the Land to the center line thereof and to any unpaid swert for any taking by condemnation or any damage to the Land by reason of a change of grade of any street or lighway.

(d) the appartanences and all the estate and rights of Seller in and to the Land and Building; and

(e) all right, rite and interest of Seller, if any, in and to the fixtures, equipment and other personal property attached or apputationar to the Building (collectively, "Prentises"). The Provides are located at or known as

358 Broadway, New York, New York

Tax Map Designation:

, Block; 171 , Lon 5

Such marketeble

as the fitle INSURE WILL
INSURE AT STANGED

2) \$1.02. Seller shall convey and Purchaser shall cocent
A fee simple tide to the Premises in accordance with the terms of
this contract, subject only to:
(a) the matters set forth in Schedule B attached karein

(a) the matters set forth in Schedule II attached karein (collectively, "Parintited Exceptions"); and (b) such other matters on (i) the title insurer specified in Schedule D attached hereto (or if none is an specified, then they member of the New York Board of Title Underwicken) that be withing, without special premium, to omit as exceptions to coverage as a special with description of the Coverage of the special premium. entil be accepted by any lender described in Segion 744 or the Roal Property Law ("Institutional Lander") which has committed in writing to provide mortgage finencing to Purchaser for the purchaser of the Premises ("Purchaser's institutional Lander"), except that if such acceptance by Purchaser a (national conder"), except that if such acceptance by Purchaser a (national conder"), except that if such acceptance by Purchaser a (national conder"), except that if such acceptance by Purchaser a (national conder is unreasonably withhold or DEMNGE Shall be decided to have been when

Santion Z. Purchess Price, Acceptable Funds, Existing Marriages, Purchess Maney Marigage and Escrow of Downpayment

§2.01. The purelisse price ("Furchase Price") to be paid by Purchaser to Seller for the Premises as provided in Schedule C attached hereto is \$ 17 $_{\star}500\,,000\,.00$

82.02. All monies payable under this contract, unless otherwise specified in this contract, shall be paid by (a) certified checks of Purchaser or any person

making a purchase money loan to Purchaser drawn on any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York

(b) official bank chocks drawn by any such banking (b) official bank checks drawn by any such banking institution, payable to the order of Seller, except that uncertified checks of Purchaser payable in the order of Seller up to the amount of 1/20thof one percent of the Purchase Price shall be accordance for sums psyable to Seller at the Closing, of all further seller selections, of all further sellers sellers by the officer of forecast further sellers and sellers are produced the accordance of the sellers of the sell

of title by Furchaser subject to one or more existing maringal (collectively, "Existing Mortgage(2)"), the amounts position in Schodule C with reference thorate may be approximate. If at the Closing the aggregate principled mount of the Existing Mortgage(2), as reduced to payments required thereunder retor to the Closing to the same than the aggregate amount of the Existing Mortgage(3), as reduced to the Closing to the Closing that the same than the aggregate amount of the Existing Mortgage(3) as specified in Schodule C, the difference shall be suited to the montes payable as the Closing. wifess utilities expressly provided in

(h) If any of the documents constituting the Marting Moragnesia or the notes) accurred thereby prohibits of restricts the enewsyance of the Premises or any past thereoff without the prior consent of the holder or holders thereof ("Martingagas(s)") or confirs upon the Morigagos(s) the right to accelerate payment of the indebtedones or to change the tymes of the Existing Mortgage(s) in the event that a conveyance is made without consent of the Mortgage(s), Seller shall hortry such Mortgage(s), Seller shall hortry such Mortgage(s) of the Mortgage(s) of the Mortgage(s) of the proposed conveyance to Pulchaar within 10 days after execution and delivery or this feature. within 10 days after execution and delivery or this contact, requirating the consont of such Mortgage(s) therety. Soller and Pirichiser shall furnish the Mortgage(s) with such information as may reasonably be required in sonnection with such requiest and shall otherwise cooperate with such Mortgage(s) and with each other in an effort expeditionally to Mortgages(a) and with each other in an effort expetitionally to proceed such consont, but nother shall be obligated to make any payment to obtain such consent, if such Mortgages(a) shall fall or refuse to grant such consent in writing on or before the date of farth in Schedule D or shall require as a condition of the granting of such consent

(i) that additional consideration are furnisher is willing to make the delitional condition of the state of the sta

the Mortgage (a) and noniner senter our rurage and is writing in my such additional consideration or

(ii) that the terms of the Existing Mortgage (a) be changed and Purchaser is inwilling to accept such change, then unless Soller and Purchaser mutually agree on extend such date or otherwise modify the terms of this contract, Purchaser may terminate this of stenot in the meneer

Province in §13.02.

If Schedule C provides for a Purchase Money Montgage (as defined in §2.04), Soiled may also terminate this contrast in the remanes provided it §13.02 if any at the foregoing diretmstances occur or if Seller is unwilling to accept any such change in the terms of the Existing Montgage in the Existing

\$2.04. (a) if Schedule/C provides for payment of a portion of the Purchase Price by execution and delivery to Seller of a note secured by a purchase maney mortgage ("Purchase Money Mortgage"), such note and Purchase Money Mortgage shall be drawn by the attorney for the Seller on the standard forms of he New York Board of Title Underwriters then in effect for motes and for mortgages of like lien, as modified by this contract. At the Closing, Purchaser shall pay the mortgage ecording tax and recording fees therefor and the filing less for any financing statements delivered in connection therewith.

(b) If Schedul C provides for the acceptance of title by Purchaser subject to Existing Mortgage(s) prior in iten to the Purchase Money Mortgage, the Purchase Money Mortgage, the Purchase Money Mortgage shall provide that it is subject and subject index to be lich(s) of the Existing Mortgage(s) and shall be subject and subject and subject in the subject and subject in the Existing Mortgage(s) and shall be subject and subject in the subject and subject in the subject i the Existing Morrage(c)) and shall be subject and subordinate to any extensions modifications, remarkle, consolidations, authentications of replacements thereof (collectively, "Refinancing" or "Refinanced Mortages"), provided that (i) the rate of incress payable under a Refinanced Mortages shall not be greater shan that specified in Schedule D as the Maximum Interest Rate is appossible in Schedule D, shall not be greater than the rate of interest that was payable on the refinanced indebtedness immediately prior to such Refinancing, and (ii) if the principal shound of the Refinanced Mortage plus the principal shound of the Refinanced Mortage plus the principal shound of the Refinanced Mortage (a). If my, remaining after placement of a Refinanced Mortage categorist the amouth of principal dwing and impaid on all mortages on the Preplace superior to the Refinancing to mortage immediately prior to the Refinancing an omnum equal to the excess shall be paid at the closing of the Refinancing to the holder of the Purchase Money Mortage half further provide that the location of Mortage shall further provide that the location of deliver any agrangent respective, selections of deliver any agrangent respectives, selections.

such subordination.

(c) The Purchase Money Marigage shall contain the

mortgaged premises shall have the right to propay the ent impald indebtedness together with accred interest, but with injustification of the first state of the st

to taye written notice to the holder hereof.*

(ii) "Notwithstanding anything to the contrary contained herein, the obtligation of the update for the payment of the indebtedness and for the performance of the terms, coverants and conditions contained herein and in the core scenical threshold in the core scenical solely to feedure against the property sourced by this mortgage, and in the event shall the mortgage of any principal of the mortgage of any principal of the mortgage, disclosed or midisclosed, he personally liable for my treach of or default.

the mortgager of any principal of the mortgager, disclosed or undisclosed, he personally liable for any preach of or default under the note or this mortgage or for any deficiency resulting from or through any praceedings to fernolose this mortgage, nor shall any deficiency judgment, proncy judgment or other personal judgment be sought or entyed against the mortgager or any principal of the mortgager disclosed or undisclosed, but the foregoing shall not advessly affect the item of this mortgage or the mortgager's right of forestrature."

(iii) "In ghitten to performing its obligations under Section 2742 of the Real Property Law, the mortgager, if other than sho of the institutions listed in Section 2742 of the Real Property Law, the mortgager, if other than sho of the institution listed in Section 2742 of the Real Property Law, the mortgager, if other than sho of the institution listed in Section 2742 of the Real Property Law, the mortgager, if other than sho of the institution in period of 12 consecutive months, it will extently, acknowledge and deliver without charges certificate of reduction in recordable form (a) certifying as so (1) the then unpul principal balance of the institutional property activities of reduction in recordable form (a) certifying as so (1) the then unpul principal balance of the institution of all interest, (4) the last date to which interest has been paid and (5) the amount of any escena departs than held by the mortgage, and (b) lating, to the knowledge of the mortgage, whether there are any alleged defaults hereafther and, if so, specifying the nature thereof."

(iv) "All notices required or dosired to be given under this mortgage shall be in writing and shall be itelivered hereacoulty or shall be sent by prepaid registered or certified or at such other addresses, not exteeding two or such other parties in the other addresses, not be teeding two or as such other addresses, not exteeding two or or such other parties in the other addresses.

partice or at such other addresses, not exceeding two, as may he designated in a notice given to the other pury or parties in accordance with the provisions hereof."

(v) The additional provisions, if any,

\$2.05. (a) If the mim paid under paragraph (a) of Schedule C or any other sums paid on account of the Parchase Price prior to the Gloding (collectively, "Dowbapayment") are paid by check or checks throw to the order of and delivered to Seller's attempt or another escrow agent ("Recrower"), the Escrowec shall hold the proceeds thereof in escrow in a special bank account (or as otherwise agreed in writing by Salar Paragraph with the Closing as account. Setter, Purchaser and Exernwee) until the Closing or sooner termination of this contract and shall pay over or apply such termination of this contract nod shall pay over or apply such proceeds in programme with the terms of this section. Excreves section to the proceeds in an interest-bearing account, but it may inverze is carned thereon, much lowered to the party of the period of the pe

to Gerowes upon request. At the Closing, such proceeds and the interest thereon. If any, shall be paid by Recrower to Seller, If for any reason the Closing close not seein and either party makes a written demand upon Escrowee for payment of auch amount, Escrawee shall give written notice to the other party of such demand. If Escrawee does not receive a written objection from the other party to the proposed paymon within 10 huginess days after the giving of such notice, Escrowed is hereby authorized to make such payment. If Escroves does receive such written objection within such 10 day period or if for any other reason Recovers in good faith shell elect not to make such paymont, Escrowed shall continue to hold such mmains until otherwise directed by written instructions from the parties to this contract or a final judgment of a court. However, Escrewee shall have the right at any time to deposit the exercised proceeds and interest thereon, if my, with the

clerk of the Supreme Court of the county in which the Land is facated. Excrowes shall give written notice of such deposit to Seller and Purchaser, Upon such deposit Excrowes shall be retieved and discharged of all further obligations and

(b) The parties acknowledge that Becrower is acting solely as a stateholder at their request and for their convenience, that Exerowee shall not be doomed to be the agent of cities of the parties, and that Escrowee shall not be liable to either of the parties for any not or omission on its part unless taken or sufficed in bad faith, in willful disregard of this contract or involving gress negligence. Seller and Purchaser shall jointly and severally indemnity and hold Eserowee hamiless from and against all costs, claims and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Escrower's duties heraunder, except with respect to notions or omissions taken or suffered by Escrowee in bad faith, in willful disregard of this contract or involving gross negligenes on the past of

(c) Exercisee has acknowledged agreement to these provisions by signing in the place indicated on the signature page of this contract.

Section 3. The Closing

\$3.01. Except as otherwise provided in this contract, the closing of fittle pursuant to this contract ("Closing") shall take place on the scheduled date and time of closing specified in Schoffste D (the actual date of the Closing bring harding referred to as "Closing Date") as the place specified in

Section 4, Representations and Warranties of Seller Section 4. Representations and Warrantes of Seller Seller percents and warrants to Purchaser the Seller percents and warrants to Purchaser the Seller percent and warrants to Purchaser the Correct as of the Clark horsest and as of the Classing dofe and which Seller is the sole owner of the Premises.

Seller is the sole owner of the Premises are encumbered by an Existing for one Cityen. Managements, no written notice has been received from the

Mongage(s), no written notice has been received from the Mongages(s) asserting that a default or breach exists thereunder which remains uncurred and no such notice shall have been received and remain uncored on the Closing Date. and ante(s) secured thereby have been exhibited to and initiated by Purchaser or its representative, such comiss are true copies of the original- and the Existing Mortgage(s) and note(s) secured metably have not been modified or amended

\$4.03. The information concerning written leases (which together with all amendments and modifications thereof are collectively referred to as "Leases") and any tenancies in the Premises not arising out of the Leases (collectively, "Tenancies") set forth in Schadule E minched hereto ("Rent Schedule") is accurate as of the dare set forth therein or, if no date is set forth therein, as of the rate bereof. and there are no Leuers or Tenancies of any space in the Premiser other than those set forth thorein and any middless. Schedule are such as all on the Rent Schedule are standard in the Rent Schedule are standar

(a) all of the Leases are in full force and affect and none of them has been modified, amended or extended; (b) no renewal or extension uptions have been

(c) no tenant has an option to purchase the Premisos: (d)the rents set forth are being collected on a current hasis and there are Aparearages in excess of one month;

(c) no tenant is entitled to rental concessions or abatements for any period subrequent to the scheduled date of alasing;

(f) Reiler has not sent written notice to any tenant claiming that such tenant is in default, which default remains unoured;

As of the date of this Contract

except for the store tenant, RJH Fashion Corp. which is paying the sum of \$9,000.00 per month which sum Seller is accepting as full payment of all rent and additional rent due from such tenant;

Ariod

or property damage which are covered by insurance; and
(b) there are no executly deposits other than those sat
furth in the Rent Schedule.

initiated by Purchasor or its representative compile movisions that are incorrelatent with the foregoing-representations and warranties, such representations and warranties shall be deemed modified to the order necessary to eliminate such inconsistently and to conform such representations and the to the provisions of the Lesson

84.04. If the Premises or any part thereof are subject id 0.4. If the Fremises or any part thereof are subject to the New York City Rent Stabilization Law, Soller is and on the Closing Date will be a member in good standing of the Rent Estate Industry Stabilization Association, and, except as afterwise set forth in the Rent Schedule, there are no proceedings with any tenant presently feading before the Conciliation and Appeala Board in which a tenant has alleged an overcharge of cont or diminution of services or similar gricovance, and there are no outstanding orders of the Conciliation and Appeala Board that have not been compiled with the Saller. with by Saller,

\$4,05. If the Premises or any part thereof are subject \$4.05. If the Premises or any part thereof are subject to the New York City Emergency Rent and Rehabilitation Law, the rotts shown are not in excess of the maximum collectible rents, and, except as otherwise set forth in the Rent Schedule, no tenants are entitled to abatements as senior citizens, there are no proceedings presently pending before the rent commission in which a tenant has alleged an overcharge of rent or diminution of services or similar giverance, and there are no outstanding orders of the rent commission that have not been compiled with by Selier.

such schedule lists all insurance policies permitly affording coverage with respect to the Profitiese, and the information contained therein is accurate as of the date set forth therein or,

34.07. If a payroll schedule is attached hereto, such schodule lists att employees presently employed at the Peppiaes, and the information contained therein is accurate as of the date set forth therein ar, if no date is set forth therein, and the less set forth therein, and the set forth the such schedule, note of such employees is covered by a union container and there are no retrocklive increases or other accurace and unoual sums overed to any employees. and unpaid sums owed to any employee.

84.08. If a schedule of service, maintenance, supply and management contracts ("Service Contracts") is attached hereto, such schedule lists all such contracts affecting the Premises, and the information set forth therein is accurate as a fine date set forth therein or, if no date is set forth therein, as of the date hereof.

\$4.09. If a copy of a certificate of necupancy for the Promises has been exhibited to and initialed by Parchaser of its representative, such copy is a true copy of the original and such certificate has not been amended, but deliver makes an representation as to complementation as to complement with any understiticate, and \$4.10. The massacd valuation and real estate taxes set

forth in Schodule D, if any, are the successed valuation of the Premises and the taxes paid or payable with respect thereto for the facet year indicated in such schodule. Except at otherwise set forth in Schedule D, there are no lax abatements or

\$4.11. Except as otherwise set forth in a schedule nitached hereto, if any, if the Fremises are used for residential purposes, each apartment contains a range and a refrigerator, and all of the ranges and refrigerators and all of the items of personal property (or replacements thereof) listed in such schedule, if any, are and on the Closing Data will be owned by

Seller free of tions and encompreness other than the lien(s) of the Existing Montgage(x), if any.

\$4.12. Sollier has no notical knowledge that any laninerator, builter or other burning equipment on the Premises is being operated in violation of applicable law. If copies of a certificate or certificate of appendict therefor have been exhibited to and initialed by Purchaser or its representative, such copies are true copies of the originals.

14.13. Except as otherwise set forth in Schadule D, Seller has no dettal knowledge of any assessment payable in annual installments, or any part thereof, which has become a tion on the Premises.

Section 5. Acknowledgments of Purchaser Purchaser acknowledges that:

Subject to the One Diligence \$5.013 Turchaser has inspected the Premises, is fully §5.013-turchases has inspected lite Premises, is may familiar with the physical condition and cate of repair cherost, and, subject to the provisions of §7.01, §8.01, and §9.04, shall accept the Premises "as is" and in their present condition, subject to reasonable use, even, tear and natural detorication in terveen now and the Chaing Date, without any reduction in the Purchase Price for any change in such condition by rendon thereof subsequent to the date of this contrast

\$5.02 Before entering into this contract, Purchaser has made such exemination of the Francisca, the operation, income and expenses thereof and all other matters affecting of Income and expenses thereof and all other matters affecting of relating to this immaction as Parchaser deemed necessary. In entering into this contract, Purchaser has not been induced by and has not rolled upon any representations, warranties or statements, whother express or implied, made by Selier or my agent, emplayes or other representative of Selier of by any broker or any other bettom representing or purposting to represent Seller, which are not expressely set forth in this contract, whether or not any such representations, warranties or sintements were made in writing or orally.

Section 6. Saiter's Obligations as in Leases

\$6.01. Unless otherwise provided in a schedule attached to this. CONTERCE, * the date of this contract and the Closing, Selice shall not, without Purchasers prior written consents which consent stational to the consents which consents is the consents of the consents of

(a) amond, renew or extend any Lanza in any respect, unless required by law; :

(b) grant a written lesse to any tenant occupying

(b) grant a wreten taken to any temperature of the property of the property of the property of the property of the default by the tenant the tenant the property of the proper

56.02. When the wine provided if a schodule schedule with the date of this contract and the Closing, Soller shall not permit occupancy of, or enter into any new lease for, space in the Bullilling which is presently wheant or which may hereafter become variant without first giving Purchaser written notice of the identity of the propo

giving Purchaser written notice of the identity of the proposal tenant, together with (n) either a copy of the proposad lease of a symmary of the terms thereof in tensonshie detail and (b) a statement of the amount of the brokerage commission, if any, payable in connection therewith and the terms of payment thereof. If Purchaser objects to such proposed lease, Purchaser shall so notify Seller within 4 hudness days after receipt of Seller's notice if such notice was personally delivered to Purchaser, or within 7 business days after the mailing of such notice by Seller to Purchaser, in which case Seller shall not office into the proposad lease. Curlose when we had not so office at the Closing, in the manner specified in \$202, the rest and additional rest that would have hean speakle under the proposed lease from the date on which the tenant's obligation to pay run would have commenced if Purchaser had not so objected until the Closing Date, less the amount of the brokerage commission specified Date, less the amount of the brokenge commission specified in Sellery-indice and the reasonable cost of deceration or other work signified to be performed by the landlord under the terms of the proposed to the proposed to the proposed to the proposed to the tenantic of the terms.

*or if required by law between

the term of the proposed leave and apportioned as the Closing Date. If Purchaser does not so notify safer of the Closing Date. If Purchaser does not so notify safer of the objection, Seller shall have the right to enter the proposed lease with the tenant identified in Seller shall pay to Seller, in the manny specified in §2.02, the Releving Expenses, proposed the sease over the term of the lease and apportioned as the later of the Closing Date or the true commencement line. Such payment shall be made by Purchaser to Seller at the Closing. In the event shall the annual of payable to Seller exceed the sums actually paid by specified in account these of non-paralleling Expenses), provided in each case over

§6.03. If any apace is vacant on the Chaing Date, Purchaser shall accept the Premises subject to such vacancy, Purchaser shall accept the Premises subject to such vacancy, particled the season was not permissed to season by Seller in violation, and season contained in this emirate. Seller shall not great any concessions or real shalaments for any period following the Clasing without Purchaser's prior witten consent. Seller shall not apply all or any part of the accurity deposit of any tenant unless such tenant has vacanted the Promises.

§6.04. Seller does not warmen that any particular france of Tenancy will be in force or effect at the Closing or Lease of Lennines will be in force or effect at the coloning of that the tellants will have performed their obligations thereunder. The termination of any Lease or Tenancy prior to the Closing by reason of the tenant's default shaft not affect the obligations of Pirichaser under this contract in any manner or entitle Pirchaser to an abatement of or credit against the Purchaser Price or give rise to any other claim on the part of

Section 7. Responsibility for Violations

\$7.01. Except as provided in \$7.02 and \$7.03, all nates or notices of violations of law or governmental ordinances, orders or requirements which were noted or issued

ordinances, orders or requirements which were noted or leaved prior to the date of the centest by any governmental depictment, agency or bureau having jurisdiction as to conditions affecting the Premises and all liens which have sunched to the Premises prior to the Closing pursuant to the Administrative Code of the City of New York, if applicable, shall be removed or complied with by Seller. If such removal or compliance has not been completed prior to the Closing, Seller shall pay to Purchaser at the Closing the reasonably sufficient unpaid cost to effect or complete such removal or contribute, and Purchaser shall be required to accept title to the Premiser subject thereto, except that Purchaser shall be required to accept title to required to accept such title and may remainte this control as provided in § 13.02 if

requires to accept which the property of the State of the or lucuation woodshiller of Furthwell Purchase 2

\$7.02, If the reasonably estimated highespate force to remove or comply with any violations or liests which Seller is required to remove or comply with pursuant to the provisions of \$7.01 shall exceed the Maximum Amount shall be one-liad of one percent of the Purchase Price), **Schedule D (or if none is so specified, the Maximum Amount shall be one-liad of one percent of the Purchase Price), **Schedule D (or if none is so specified, the Maximum Amount shall be one-liad of one percent of the Purchase Price), **Schedule D (or if none is so specified, the Maximum Amount shall be one-liad of one-percent of the Purchase Purchase publication in the sale liability of Seller shall be as set forth in \$13.02, unless that the purchase publication is provided to the Purchase publisher of the publication in the Purchase publisher on the publisher in the Purchase publisher in the publisher in the Purchase publisher. Purchaser elects to accept title to the Premises subject to all such violations or Heas, in which event Purchaser shall be entitled to a credit of an amount oppul to the Maximum Amount against the montes payable at the Cloring.

37.07; Regnellens of whether a violation last less

not he an objection to title:

(a) any violations of New York City
Law 5 of 1973, as amended (missing to fire solve) to

buildings), if applicable, or

(b) any violations which tenant is required to remove or comply with pursuant to the terms of its lease by reason of such tenant's ties on receiptancy. Purchaser shall necess the Premises subject of its such violations without any linkility of Saller with respect thereto or my abatement of or credit against the Darchase Prices made that it Purchaser shall institutional Lander reasonably refuses to provide standing by reason of the violations described in the respective for the respective for the provide standing by reason of the violations described in the respective for the respective for the provide standing by reason of the violations described in the respective for the right to terminate this contract in the

§7.04. If required, Sciler, upon written request by Purchasor, shall promptly furnish to Purchaser written authorizations to make any necessary searches for the purposes of determining whether notes or notices of viulations have been noted or issued with respect to the Promises or Jians have attached thereto.

Section 8. Destruction, Damage or Condemnation

58.01. The problems of States 5-1911 of the George Chipping Law shell apply to the sale and purchase

Sellor covenance at Seller Sellor covenance that between the date of this contract and the Closing:

hting -Martyage(s) Jamahied a Seller shall pay or make, as and when due and payable, all payments of principal and interest and all deposits required to be paid or made under the Existing Mortgage(a).

§9.02, Seller shall not modify or smend any Service Contract or chier into any new service contract unless same is terminable without penalty by the then owner of the Fremisca iman not more than 30 days notice.

\$9.03, 17 an insurance schedule is attached hereto. Soller shall maintain in full force and affect until the Closing the haumance policies described in such schedule or repewals thereof for no more than one year of those expiring before the

89,04. No fixtures, equipment or personal property tectuded in this sale shall be removed from the Premians quites the same are replaced with similar items of at least equal quality prior to the Closing.

§2.0.5. Setter shall not withdraw, actile or otherwise compromise alsy protest or reduction proceeding affecting real epints makes seasesed against the Presides for any flocal portind in which the Closing is to occur or any subsequent flowing paried without the prior written concent of Purchason, which consent shall not be increasanably withheld. Real estate tax refunds and chedits received after the Closing Date which are autribusable to the fiscal tax year during which the Closing Date occurs shall be apportioned tenseen Seller and Purchaser, after deducting the expenses of collection thereof, which obligation shall survive the Closing.

\$9.06. Soller shall allow Purchaser or Purchaser's group Some found into Furginger or Furginger representatives across to the Premise; the Leases and other documents required to be delivered under this contract upon reasonable prior notice at reasonable times.

Section 10. Seller's Closing Obligations At the Closing, Seller shall doliver the following to Purchasor:

§10.01. A statutory form of bargain and sale deed without covenant against granter's acts, containing the covenant required by Section 13 of the Lien Law, and properly

Property AN A 10st to repair is UNDER \$750,000, Briller will Assign insurance proceeds and brieffest to thirthese and Durchaser.

Pay drolubble to thirthese and Durchaser.

Closes w/o a botoment to the P.P. It rost

15 over 1250,000, furthose en (x) terminate

15 over 1250,000, furthose en (x) terminate

Or (1) accept a seryn want of insi proceeds

Plus drolubble from Soller and close w/o

plus drolubble from Soller and close w/o

absterment to purchase fruct

Clusing

or wire transfer

of Feclera funds

executed in proper form for recording so as to convey the title required by this contract.

\$10.02, All Lennes initiated by Parchaser and all others in Seller's possession.

510.03. A schedule of all cash security deposits and a check-or great to Purchaser in the amount of such security deposits, including any interest therein, held by Seller on the Closing Date under the Leases as it includes an include the Leases as it includes a least and Lander, an assignment to Purchaser and option-instructions to the helder of such deposits to territory the same to Purchase and appropriate instruments of transfer or assignment with the purchase of the pur

§ 10.04. A schedule updating the Rent Schedule and setting forth all attents in rents and all prepayments of rents.

\$10.05. All Service Contracts Initialed by Purchaser and all others in Seller's possession which are in effect on the Closing Onto and which are assignable by Soller.

§10.06. An ausignment to Purchaser, without recourse or warranty, of all of the interest of Sellor in those Service Contracts, instrumes policies, certificates, permits and other documents to be delivered to Purchaser at the Closing which are then in effect and are assignable by Sellor.

if required under \$2.03(n), and(b) cortificate(a) executed by the Mortgagee(c) in proper form for recording and certifying (i) the amount of the unpaid principal believe thereof, (ii) the maturity date thereof, (iii) the interger fits, (iv) the last date to which interest has been paid thereof and (v) the amount of ony exercited points held by the Mortgagee(a).

Sollar about pay the feas for recombing anch certificate(a) may fortgage which is an institutional Lender muy formsh a letter complying with Section 274-a of the Real Property into himself and cartificates.

interest in estraw deposits for real estate taxes, interfance premiums and other amounts, if any, then field by the Mortgagoc(8).

§ 10.09 64 Griginal insurance policies with respect to which paratitins are to be apportioned or, if unobtainable, true

\$10.10. To the extent they are then in Sellor's assession and not posted at the Premises, certificates, licenses, permits, nutborizations and approvals issued for or with respect to the Premises by governmental and quasi-governmental authorities having jurisdiction.

§10.11. Such affidovita as Purchaser's title company shall renkembly require in order to could from its title insurance policy all exceptions for judgments, bankrupteles or other returns against persons or solition whose names are the same as or similar to Seller's name.

910.12. Checks to the order of the appropriate afficers in payment of all applicable real property manafer tance and copies of any required tax returns therefor executed by Soiler, which checks shall be certified or official bank wheeks if required by the taxing authority, unless Salier elects to have Parchaser pay any of such taxes and credit Purchaser. with the amount thursoft.

\$10.13. To the extent they are then in Seller's prossession, copies of current printing and payroll records. Seller shall make all other Building and tenant files and recards available to Purchaser for copying, which obligation shall survive the Closing.

g10.14. An original texter, excented by Soller or by its appoint, intvising the tenants of the sale of the Promises to Proclaser and directing that cents and other payments thereafter be can in Purchaser or as Purchaser may direct.

Seller or its agent, advising of the alc of the Premites by Purchase and directing that litture bills and correspondence should thereafter he sent to Purchaser or as Purchaser may direct.

\$10.16. If Soller is a corporation and if required by Section 909 of the Business Corporation Law, a resolution of Seller's board of directors submitteing the sale and delivery of the deed and recriticing the sale and delivery of the deed and recreating of the section of such sometary of Seller Certifying as to the adoption of such resolution and Seding forth facts showing that the transfer complice with the requirements of such law. The deed referred to in ATO-01 pilati also contain a recital multiclent to cambilate and sections of the requirements of such law.

910.17. Postession of the Premises in the condition required by this contract, subject to the Leases and Tonancles, and keys therefor,

510.18. Any other documents required by this contract to be delivered by Seller.

10.19 FIRPTA Cofficulties

Section 11. Purchaser's Closing Obligations

At the Closing, Purchaser shall:

§11.01, Deliver to Sollor checks in payment of the portion of the Purchase Price payable at the Closing, as adjusted for apportionments under Socilon 12, the inits, if mry, malgred price

Mortgage, if any, in proper form for recording the note secured thereby, linaucing statement thereing personal property, fixtures and equipment included in this sale and epilecements therefor all property executed, and Purchasur abeliance Mortgage recording tax and recording fees for a property and prop

§11.03. Deliver to Reller an agreement indemnifying and agreeing to defend Seller against any claims made by tenants with respect to tenants' southly deposits to the extent paid, credited or assigned to Furchasor under §10.03.

\$11.04. Cause the deed to be recorded, duly complete all required real property transfer tax returns and cause off such rotters and checks in payment of such taxes to be delivered to the appropriate officers promptly after the Cleaner.

§11.05. Deliver any other documents required by this contract to be rightered by Purchasor.

Section 12. Apportionments

§12.01. The following apportionments shall be made hetween the parties at the Closing as of the close of business on the day prior to the Closing Date:

(a) propaid reas and Additional Reals (as defined in

§12.03);

(b) interest on the Existent, Meriogogoth;

(c) real estate taxes, water charges, sewer reals and

vault charges, if any, on the hards of the flacel period for
which nateused, except that if there is a water meter on the

last available reading, subject to adjustment after the Closing

when the maxtending is available;

(d) wages, vecation pay, pension and welfare benefits

and other frings benefits of all persons employed at the

Promises whose employment was not terminated at or prior to

the Clusing;

the Clusing:

(e) value of fuel stored on the Premises, at the price

then charged by Seller's supplier, including any taxes;
(f) charges under transferable Service Contracts or

permitted removals or replacements thereof;
(g) permitted administrative charges, if my, un
tenants ensurity deposits;

this district the second secon

first.

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(I) Reletting Repeatenture \$6.02, if ret (k) may other items (lated in Schedule D.

if the Closing shall occur before a new tax totalis if the Glosing shall occur before a new tax sate is fixed, the approximment of faxes at the Glosing shall be upon the bools of the old tax rate for the preceding period applied to lutest speaked valuation. Promptly after the new tax rate is fixed, the apportionment of taxes shall be recomputed. Any discrepancy resulting from such recomputation and any errors or unitestons in computing apportionments of Closing shall be such as the configuration of the contract of the contra promptly corrected, which obligations shall survive the Closing.

§12.02. If any tenant is in arrears in the payment of rent on the Closing Date, rents received from such tenant after the Closing shall be applied in the following arder of priority:

(4) Gasta the ment processing one

(a) destroyed in the proceeding are mount in which the Closing accurred;

(b) skes to the month in which the Closing accurred;

(c) then to nay ments or months following the month in which the Closing occurred; and

(d) then to be received and

the month in which the Closing occurred.

If rents or any portion thereof reserved by Seller or Purchaser after the Closing are psystale to the other party by reason of this allocation, the appropriate sum, less a proportione states of any reasonable attorneys fear, costs and expansed of collection thereof, shall be promptly paid to the other party, which obligation shall survive the Closing.

g12,03. If any tenants are required to pay percentage cans, excalation charges for real extate taxes, operating expenses, cost-of-living adjustments or other charges of a similar nature ("Additional Rents") and any Additional Rents similar inture ("Accordance tend) and my Accordan Kons-nuc collected by Purchaser after the Closing which pre-attributable is whole or in part to any ported prior to the Closing, their Purchaser shall promptly say to Retter Seller's proportionate share thereof, loss a proportionate share of any canadonatic attorneys' fees, coats and expenses of collection thereof, if and when the toward paying the same that made all payments of rent and Additional Rent then the re Purchasor pursuant to the tenant's Lease, which obligation shall survive the Clusting.

Section 13. Objections to Title, Failure of Sailer or Purchases to Perform and Vandee's Lien

\$13.01. Purchaser shall promptly order an examination at title and sluth cause a oney of the title report in the firewarded to Sciller's attorney upon receipt. Seller shall be cautiled to a responsible adjournment or adjournments of the Closing for up to 100 days second the capturing of the fireward of the control of th Anti-prot to functions price to the notice that the second in a objections to file noted in sich title report and any other defects or objections which may be disclosed on or prior to the Closing

\$13.02 If Seller shall be unable to convoy title to the §13.02 if Seller shall be unable to convey title to the Premines at the Cleating in accordance with the provisions of this contract or if Purchasee shall have any other grounds under this contract for refusing to consummate the purchase provided for herein, Purchaseer, nevertholaus, may black to accept such title as Seller may be able to convey with a credit against the monion payable at the Cleating equal to the reasonably estimated cost to the the same (up to the Miximum Repense described below), but without any other treatit or liability on the part of Seller. If Purchaser shall not so clott, Purchaser may terminate this contract and the soli liability of Seller shall not account the Downpayment to liability of Seller shall be to sellend the Downpayment to Purchaser and to relimburae Purchaser for the net cost of title examination, but not to exceed the not amount charged by Purchaser's file company therefor without fattence of a policy, and the net cost of updating the existing survey of the Premises on the net cost of a non-convey of the Premises. there was no existing survey or the wheting survey was not capable of holps undered and a new survey was required by furnished institutional Leaders Upon such refund and Professional Leaders Under such refund and reimbursement, this contract shall be mill and vald and the

parties hereto shall be relieved of all further chiligations and liability other that any arising under Section 14. Seller shall itability other that any arising under Saction 14. Sellor shall not be required to bring any action or proceeding or to incur any expense in excess of the Maximum Expense apsolfind in Schadule D (or if none is an specified, the Maximum Expense shall be one-half of one percent of the Purchasa Price) to ourse any title defect or to smooth Schor otherwise to comply with the provisions of this courset, but the firequing shall not permit Solice to retinue to pay off in the Cleaking, to the extent of the monion payable at the Cleaking, mortgages on the Premixes, other than Existing Martgages, of which Seller has extend showledge. has actual knowledge.

§ (3.03 Any unpaid taxes, adsoraments, water charges and sewer routs, together with the interest and penalties thereon to a date not less than two days following the Closing themon to n date not less than two nays following the Closing Date, and any other Hens and endumbrances which Soller is abligated to pay and discharge or which are against corporations, astotos or other persons in the chain of title, together with the cost of recording or filing any instrumenta necessary to discharge seek flore and exembrances of record, may be paid out of the proceeds of the monion payable at the Closing if Seller dolivers to Purchaser on the Closing Date Control of the control official bills for such taxes, agreements, water charges, sower repts, interest and penalties and instruments in coordable form sufficient to discharge any other liens and encumbrances of records Upon request made a reasonable time helpre life Glosing. Purchaser shall provide at the Closing separate disease for the faregoing payable to the order of the holder of any and lien, charge or encumbrance and otherwise complying with \$2.02. (- Tauchann's title Insurance and otherwise) complying with 22.02. It Businesset, title humanus assets is willing to insure both Purchaser and Purchases flagitutional Lenier, if any, that such charges, the and encumbrances with not be collected out of or entipole againgt life Premises, thon, unless Putchaser's Inchestional Lender reasonably refuses to adopt auch insurement in lieu of accusi payment and discharge to deposit with the fittle insurance enterpany such funds or surfances or to pay such special or additional premiums the title insurance company may require in arder; to make, in such once the charges, liens and encumbrances with respect to which the title insurance company has agreed so to insure shall not be considered describing to title.

§13,04, if Purchaser shall default in the performance g13,04, if Purchaser shall default in the performance of its obligation under this contract to purchase the Fremises, the sole remedy of Seller shall be to retain the Downpayment as liquidated damages for all loss, damage and exponent suffered by Seller, including without limitation this loss of its bargain, A a frust is loss of its bargain. A a frust is loss of its bargain a first bargain a first frust in the loss of its sufficient for the amount of the Downpayment, but such lies shall not continue after default by Purchaser under this continue.

Section 14. Broker

§14,01. If a broker is specified in Schedule D, Seller and Furchaser mutually represent and warrant that such broker is the only broker with whom they have dealt in convection with this contract and that notifier Seller nor Purchaser knows of any other broker with the channed or may have the right to claim a commission in connection with this transaction, unless that the contraction is contracted to the contraction of the contr therwise indicated in Schedula D. The commission of such broker shall be paid pursuant to separate agreement by the party specified in Schedule D, If no braker is specified in Schedule D, the parties acknowledge that this contract was brought about by direct negotiation between Soller and Purelpare and that notinor Schler nor Purchaser knows of any traker antitled to a commission in connection with this transaction. Unless otherwise provided in Schedule D, Seller transacion. Offers a narrows proving in a calculation is solid. and Phythaser shall indemnify and defend such other against any costs, claims or expenses, including attorneys fees, arising out of the breach on their respective parts of any representations, warranties or agreements contained in this paragraph. The representations and obligations under this that the state of the Chalman of paragraph shall survive the Clasing or, if the Clasing does not accur, the termination of this contract,

And Punkalitie 1.+1e co MANARY SAM noingit?

or by facsimile transmission recognized overnight Section 15. Natices LATTICK

\$15.01. All notices under this central 515.01. An notices inster this contract about my in writing and shall be delivered personally or shall be cent by prepaid registered or contified mail, addressed as set forth in Schoolile D, for as Sallor or Purchaser shall otherwise have given notice as herein provided.

Saution 16. Limitations on Aurylyni of Representations, Warraniles, Covenants and other Obligations

§14.01. Except as otherwise provided in this contract, g16.01. Except as otherwise provided in this contract, no representations, warmandes, covenants or other shall gations of Seller set forth in this contract shall survive the Closing, and no action base thereon shall be commenced efter the Closing. The representations, warmands, covenants and other Closing. The representations, warmands, covenants and other Closing. The representations, warmands, covenants and other Closing to 1961s; set forth in the Closing of the Closing of the Closing of the date which is a specified, the Limitation Date, and no settin based thereon shall be commoned after the Limitation Date.

DME(I) AGOL

+ his Aq From

> \$16.02 The delivery of the deed by Seller, and the gio.uz The delivery of the deed by Seller, and the securiosance thereof by Purchaser, shall be deemed the full performance and discharge of every abligation on the part of Seller in the performed between except those obligations of Seller which are expressly stated in this sourcest to survive the Clarker.

Section 17. Missellancous Provisions

817.01. If consent of the Estating Morphogaeth is acquired mades 12.03(b). Purchaser shall me fast graths because of its rights bersunder without the prior writen consent of Seller. No permitted assignment of Purchaser's rights under this contract shall be effective against Seller. unless and until an executed counterpart of the instrument of unless and until have been delivered to Saller and Seller shall have been furnished with the name and address of the nasignee. The term "Purchastr" shall be dramed to include the taxignee under any such officetive essignment.

\$17.02. This contract embodies and constitutes the online understanding hetween the parties with respect to the entire understanding between the parties with respect to the ironaution contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this contract. Neither this contract not any provision hereof may be waived, modified, anended, dissiparged or terminated systems by an instrument signed by the party against whom the onforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

\$17.03. This contract shall be governed by, and construed in accordance with, the law of the State of New

§17.04. The exptions in this contract ore interted for convenience of reference only and in no way define, describe or limit the scope or intent of this contract or any of the provisions hereof.

\$17,05. This contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective helps or successors and perintited assigns,

\$17.06. This contract shall not be binding or effective until properly executed and delivered by Seller and Purchaser,

§17.07. As used in this contract, the masseuline shall include the feminions and neuros, the singular shall include the plural and the plural shall include the singular, as the context may require.

\$17.08. If the provisions of any schedule or rider to this contract are incanslatent with the provisions of this contract, the provisions of such schedule or rider shall prevail. Set forth in Schedule D is a list of any and all schedules and riders which are attached hereto but which are not listed in the

SEE RIDERS ANNEXED HERETO AND MADE A PART HEREOF IN WITNESS WHEREOF, the parties herein have executed this contract as of the date first above written.

SELLER(S): PURCHASER(S): 358 BROADWAY-MWAYLLC MILEOS FRANKLIN ACQUISTIONS, HLC

Receipt by Excrowed

The undersigned Becrower horsely acknowledges receipt of, by check subject to collection, to be hold in excrow pursuant to §2.05.

FIRST RIDER ANNEXED HERETO AND FORMING PART OF CONTRACT OF SALE BETWEEN 358 BROADWAY LLC, AS SELLER, AND 358 BROADWAY-FRANKLIN ACQUISITION LLC PURCHASER, AFFECTING PREMISES LOCATED AT 358 BROADWAY NEW YORK, NEW YORK

- Conflict. In the event of any conflict between provisions contained in this Rider 18. and those in the printed form to which it is annexed, the provisions of this Rider shall control.
- Closing Date. The Closing may be held on any date before September 30, 2005 or after May 1, 2006 and on or before April 30, 2007 ("Final Closing Date") WITH TIME BEING OF THE ESSENCE AS TO THE FINAL CLOSING DATE, upon thirty (30) days' written notice from Purchaser to Seller. Notwithstanding the foregoing, (1) the parties shall have the right but not the obligation to agree to an earlier closing date should they be so inclined, (2) Purchaser shall be permitted one or more adjournments of the Closing Date not to exceed thirty (30) days in the aggregate, and (3) if Purchaser elects to close hetween January 1 and April 30, 2006, Purchaser shall reimburse Seller one-half of the pre-payment penalty that Seller must pay its Lender, not to exceed the sum of \$31,250.00.

Authorization of Attorneys. 20.

The respective attorneys for the parties are hereby authorized to give any notice which the party is required to give or may give under this Contract.

Downpayment. Notwithstanding any language to the contrary in Schedule C hereof, the Downpayment may be paid in two installments, each of One Million (\$1,000,000.00) Dollars, with the first installment thereof ("Initial Downpayment") due upon execution of this Contract and the second installment due thirty (30) days thereafter (i.e. on May 4, 2005). The Downpayment shall be held by Seller's attorneys in a segregated interestbearing account with all interest camed thereon belonging to Seller, except in the event of Seller's willful default such interest shall go to Purchaser.

Sciler's Execution. 22.

This Contract shall not be binding upon Seller, and Seller shall incur no obligations of any kind to Purchasor, unless and until a fully executed counterpart of this Contract is delivered to Purchaser's attorney and the Downpayment set forth in Schedule C and Paragraph 21 of this Contract has been deposited and cleared.

Due Diligence Period. Purchaser shall be afforded up to thirty (30) days after payment of the Initial Downpayment (i.e. May 4, 2005) ("Due Diligence Period"), to inspect the Premises and all filings and reports with respect thereto. At any time during such Duc Diligence Period, Purchaser shall have the right cancel this Contract upon written notice and to receive a refund of the entire Initial Downpayment. In the event Purchaser so elects to cancel this Contract during the Due Diligence Period or if Purchaser does not give Seller written notice of its intention to go forward with this Contract and does not deliver to Seller's attorney the second \$1,000,000.00 downpayment, Purchaser will be deemed to have terminated this Contract and Seller's sole obligation shall be to refund the Initial Downpayment to Purchaser after which this Contract will be deemed null and void and of no further force and effect.

24. Tax Free Exchange.

Seller shall have the right at its option to transfer and convey the Property to Purchaser as part of a tax free exchange ("Exchange") for other real property or properties of like kind ("Exchange Property") pursuant to Section 1031 of the Internal Revenue Code in lieu of selling the Property to Purchaser as otherwise provided in this Contract. If Seller so elects by written notice to Purchaser prior to Closing, Purchaser agrees to cooperate with Seller to effectuate the Exchange, provided that Purchaser is not required to incur any additional expense or liability in connection therewith.

25. Tenancics.

- If any tenants fail to comply with their obligations under their leases or tenancies prior to the Closing Date, Seller may enforce its rights by terminating their leases by summary proceeding or otherwise, and Purchaser shall accept the Premises with or without such leases being in effect as the case may be.
- Seller does not represent that the leases or tenancies affecting the Premises on the date of the Contract will be in effect on the Closing Date. It is agreed and understood that no representation has been made and no responsibility is assumed by Seller with respect to the continued occupancy of any portion of the Premises by any tenant prior to the Closing Date, whether by summary proceedings or otherwise, shall not give rise to any claim on the part of Purchaser or affect this Contract in any manner whatsoever.
- Purchaser acknowledges that certain of the leases may expire or otherwise terminate between the execution of this Contract and the Closing Date and has requested that Seller not extend or renew such leases if not required to do so by law. Seller agrees not to extend or renew any such leases providing that Purchaser:
 - Pay to Seller within ten (10) days after transmittal of rent bill by fax or (1)mail addressed to Purchaser any and all rents and additional rent which would have come due from any tenant during the prior calendar quarter whose lease has been terminated or has not been renewed or extended from the date of termination or expiration thereof until the Closing Date. Notwithstanding the foregoing, in the event of Seller's willful default, Seller shall reimburse Purchaser any sums paid hereunder;
 - The last monthly rent due under an expired or terminated lease plus four (2) (4%) percent increases per annum effective with the renewal date shall be prima facie evidence of the amount to be paid on a monthly basis by Purchaser from the Rent Shortfall Escrow except where a bona fide offer to rent vacant space has been received by Seller but not accepted at Purchaser's request, such shall be the amount due from the Rent Shortfall Escrow, net of the costs that would have been associated with such new lease or renewal; and
 - Purchaser acknowledges and agrees that Seller did not lease Unit 6D for (3) which a bona fide offer of \$4,300.00 per month commencing April 1, 2005 was made but not accepted by Seller at Purchaser's request.
- The parties acknowledge that Seller shall continue to manage the Building until the Closing Date. Notwithstanding the foregoing, Sciler agrees to use its best efforts to assist Purchaser in connection with any negotiations Purchaser wishes to enter into with any tenant in the Building provided that (1) no such negotiation shall take place without the participation and approval of Seller not to be unreasonably withheld or delayed, and (2) no such

negotiation shall take place before Purchaser deposits with Seller's attorney the second \$1,000,000.00 downpayment hereunder.

26. Exculpation of Seller. It is understood and agreed that the obligations of Seller under or with respect to this Contract, and with respect to any instruments or documents delivered in performance of Seller's obligation hereunder, shall not constitute personal obligations of Seller or of any of its members or managers, and Purchaser will look solely to the Premises for satisfaction of any obligation or liability of Seller in respect to this Contract.

358 BROADWAY LLC

Jerry Jacobs, Membe

Purchaser:

358 BROADWAY-FRANKLIN ACQUISITION LLC

By

Henry Kayl heil, Member

SECOND RIDER ATTACHED TO AND MADE A PART OF CONTRACT BITWEEN

358 BROADWAY LLC

("Seller") and

358 BROMOWAY-FRANKLIN ACQUISITION, LLC

- a/x/A 54 Frenchie state

("Purchaser"), concerning the Premises are located at or known as 358 Broadway, New York, New York

Tax Map Designation: , Njock: 171 Lot: 5 ("Fremises").

premises subject to the following:

(a) Any state of facts an accurate survey may show, provided such facts do not reader title

- finets do not reader title unmarketable.

 (b) Covenants, restrictions, essements and contents of record, provided they do not prohibit the creation or maintenance of the structures now no the provides. on the premises.
- (c) Party wall and party wall agreements, if any, (d) Existing tenancies and lease as ast forth upon the antecent schedule, which leases have been exhibited to the Purchaser(s) and Purchaser(s)
- attorneys.

 (e) Pressible lack of right to maintain vault area under and coal chutes in the aldowalk.
- Possible Possible engrosphments of rotaining walls, bay windows, rotating water bay windows balconies, copings, collect doors, sidewalk obvertors, inners and fire excepts, and variations between rocord lines, and fences and retaining walls.
- (g) Rights, if any acquired by any stilling company to maintain and operate lines, wires, carles, notes and distribution boxes in, over and
- tipon said premises
 Variations baty con descrip
 herain and the prop description. (h)
- 2. If any past are rentals are owing by teannts at the time of clearly of title for a period not exceeding one month and the Selfer is entitled to all or part of the said past due rentals, the Purchaser agrees that the first pionias received shall be held by the Purchaser as postates for the Selfer on account or in payment of such past due rentals and the Purchaser agrees to remy forthwith to the Selfer in emount of such past due rentals and the Purchaser agrees to remy forthwith to the Selfer is emitted, so collected, out of the first monies received by the Purchaser.
 - The Saller agrees to credit to the

inbited by the terms of a lease), to free promission by the Current of the Control of the Control of the Current of the Cur securities (rensierred to Purchaser,

- 4. The Seller makes to representation and assures no responsibility with respect to the continued occupancy of said premises or any part thereof by any tonant or potants now in possession. The removal of the topinis, whether by summary proceeding or otherwise prior to the delivery of the dead, shall not give rise to any claim on the part of the Furchaser or affect this agreement in any manior whateover, Soffer, prior to closing of title; shall be entitled but pot obligated to enforce the rights under any lease of any tonancy by summary proceedings. Sollor agrees to operate the building in a businessike matter. matings
- 5. The existence of mortgages, liens or encumbrances shall not be objections to dile, provided that properly executed instruments in provided that properly executed instringents in renordable form mechanismy to satisfy same air delivered to the Purchaner at the closing of title together with recording and filling fees, if any, duct such morigage, liens or encumbrances may be paid out of the coat- consideration paid by the Purchaser and the fitle company omits. Natwithstanding the provisions herein, the existence of any violations analyst he are misses the acquires the appropriate about of the provisions herein. privations iterating the extensive by any vinitations against the premises shall not be deemed an objection to title provided the actler certifics that it has compiled with such viciation. Any violation which a tenant is required to remove or comply with pursuant to terms of lesses or otherwise, shall not be deemed envered and purchaser will take title subject to same. in the event the aggregate reasonable cost of complying with violations (not certified as complied with by seller) shall exceed the sum of \$5,000, with hy seller) shall exceed the sum of \$5,000, as all or shall have the option of complying with such violation(s) or refusing to comply therewith. In the event the seller refuses to comply therewith, purchaser shall have the option of taking title subject to such violations and receiving an sharement of the purchase prior for the reasonable cost of complying with auch violations, such abatement, however, not to exceed the sum of \$5000, in the agregate; or the purchaser may refuse in take title and reached this contract pursuant to the terms of this contract.

- charges and assessments shall not be objections in title, but the amount thereof, plus interest and penalties thereon shall be dedunted from the consideration to be paid hereunder, and allowed to the Purchaser, subject to the provisions for apportionment of mass and water charges contained herein and title company assures against collection.
- Unpaid franchise tax or any 7. Unpaid franchise tax or any conporation in the chain of title shall be no objection to title, provided the Beller deposits with the Purchaser's title company in essents the repandation franchise tax within sixty days from the date of closing of title.
- g. Fuel on the premises on the date as or which adjumments shall be made, shall be paid for by the Purchasor, in coals or certified check or via adjustment, at the time of alexing of thic, at the coat thereof to the Selfer, plus tax. The amount of fuel is to be estimated in writing by a fuel company for the
- 9. The Seller has not made and does not make any representations as to the physical condition, income, expense, operation or any other condition, income, expense, operation or any other matter or thing affecting or related to the alcressic promises, except as heroin specifically sol forth, and in Purchaser heroby expressly acknowledges that no such representations have been made. Pitcheser has exuationed and investigated to its fall satisfaction the miture and condition of the real property hereby agreed to be sold and agrees to accept the same "AS SIS". Purchaser, in executing this agreement and in undertaking to perform and in performing the same, does not rely tipns any sintemonis, representations or information by whomosever made, whether verbel or written statements, representations by real estate brokers "set-ups" or information perstaining to the above promises fittished by any real estate broker. brokers' "set-ups' or information personning to the above promition introduced by any real extate broker, agent, amployee, servant or other person unless the amore are specifically set forth herein. This contract sets forth the entire agreement of the partice hereto. The acceptance and delivery of the deed of conveyance at the time of closing of tille shall be deemed to be full performance and discharge or any and all of the obligations on the part of the spier to the performed on his part pursuant to the terms and provisions of the contract, except as to those obligations which are specifically stated to survive the delivery of the deed.
- the utilizery at the deed.

 10. If, for any reason whatsoever, the Seller shall be unable to convoy a marketable title upon the terms and conditions herein set forth, or he simble to comply with the commitments of the Seller on herein set forth, the Seller, of its option, shall be entitled to reasonable adjournment for the purpose of curing any defects in title or effecting compliance with any of the commitments of the Seller, and if the Seller (who is under no obligation to bring any action of proceeding or otherwise incur any expense whatsoever to cure such defect) is unable to sure such defects within an adjournment period, or if no adjournment is reducted by the Seller, the Purchaser shall, at his election, have the right to purchase the property subject to such defect and pay the full canadderation thereof without any claim on the part of the Purchaser for abstorment, or the Purchaser shall have the right or reached this contract, upon which have no right to reschud this contract, upon which recipion pursuant to this paragraph, the solo linbility of the Soiler will be to refund to the Purchaser the emount noid on so

- not to exceed the charges fixed by the Naw York State Board of Title Underwriters, and upon such refund lits contract shall be outland void, Seller you not putter or permit any tions to be created between this date and closing except as niny be permitted
- dnic of closing of liftle, any unit in the promines becomes vacen, the Soller shall have the right to front or lease some for a period not exceeding two cars, at the maximum cental permitted by applicable rent law or regulation or at the ranna shower lagen if the dail is decontrolled. If paid by the Souter, the cost of painting, decorating and furnishing any equipment in such unit shell be 'pro-thied and paid for by the Purchaser in rans at the those of closing of title. Privilege is hereby given to the Purchaser, however, to require that the Seller loop any such unit vacant in which even and puny the closing of title, the Purchaser shall may to the Seller in cash, the Seller's portion of the ront and shown herein for any such dufficulties of they date when such unit became vacant, such privilege shell be exercised within three days after noticely by Seller to Purchaser by registered assisted mail.
- right, title and interest of the Soller in and to any and all personal property which may be in or upon the premiser spourtonant to or used in connection with the operation property of the production where the production thereof and owned by the Soller, what he defined respected or conveyed to the Purphaser under the doud of conveyance to be delivered, but that no part of the purchase price shall be determed to have been paid by the Purchaser for same.
- 13. The Purchaser, at John ton (10) days prior to the closing of title, shall furnish to Seller's atterney a written notice of any objections to
- 14. The accordance of the deed by the Purchaser herein or estimate shall be dearned full complianted by the Selloy of all the terms, coveniant on anothing of the Selloy of the second as otherwise expressly stated herain,
- 15. The sum deposited by the Purchasor horeunder an down payment whether made at the time of execution of this contract or at time herenflow whether required horaunder or agreed to heranter, shall in the event of default by the Purchaser be ratained by the Seller as liquidated degrages, and neither party shall have any further
- 16. If the payment made on second of the purchare price at the time of execution of this contract be by check, and if said check shall fell of collection in due course. Sailer, at its option, may declare this contract cult and void. Seller may also assess a bounce fee of \$ 100.00.
- 17. The following additional frame are to be apportioned: superintendent's solary.
- 18. If any provision of this Rider shall conflict with any printed provision of this Agreement, the provision of the Rider shall control,

- Any and all of the subject provisions contained in this contract may be omitted by the Saller in the sload to be delivered herounder, but all such provisions as omitted shall survive the delivery of said deed or denis. t9.
- ancept that purchaser shall have the right to purchaser shall have the right to purchase the accordance to the organized by him in which he is the majority stockholder. Purchaser shall make yeller in writing of such nating manufacture in receipt of which such assignment that it is a receipt of which such assignment that it is not to be a receipt of which such assignment that it is not to be a receipt of which such assignment that it is not to be a receipt of which such assignment that it is not to be a receipt of which such assignment to be a receipt of the right of the
- 21. Natwidstanding anything to the contrary contained heroid, the parties agree that any changes or additions on the within Contract may be initialed by the respective attenties for the parties with the same force and effort as it initialed by the
- 22. The Seller represents that the rente listed on the annexed schedule are currently being billed to each of the tennets for the month in which the Confract is dated. All leases expire as per rent schedule annexed. This paregraph survives closing.
- The Ballor represents that is here received no notice of any spileations or profits with reference to any rentals set furth on the function of udministration; that no tenant has been given any intriner concession or consideration for the rental of any space; that further, that no utilities except enoking as non-ficialised in any rent, except the superintential, and there are no professional or turnibut aparaments. This paragraph survives
- Seller represents that the premises nre legal for occupancy by Comilian as por national Cartificate of Occupancy and soller will deliver a Cartificate of Occupancy for sante at cleaning of title.
- Ting Sallon 25. filed the registration required in accordance with the New York State Division of Housing and Companily Renewal as required by the Ornabus Housing Act of 1983. This paragraph survives closing and Soller that complied with all applicable regulations of said not since said date.
- 26. That in all cases where reace have been increased by reason of additional service or equipment, that same laws actually been familiated, listerlied and fully obtil for and that none of the remain reflect or faciled a sum allowed for increased occupancy or prolessing.
- The Seller represents that each apartment is equipped with one stove and one refregerator owned by the Seller and included in this
- 28. The Seller will provide to the Purchasor at the time of closing of title an affidavit stuling the fig. work has been done upon the promises by the City where the promises are located and that the City of has not demanded that any work by performed which would result in clarges by the City of Emergency Repair Service nor is there any unpeid charge for Emergency Repair Service.

- It is agreed that no party, eiter than
 the named Pinchaser, shall be liable herounder as
 disclosed or undisclosed principal.
- The Selfer re time during the year last past there has been an Article 7A proceeding affacting the promise and, additionally, as a condition of closing, apparation 7A proceeding will be pending and no year strike will be for the first
- 31. The Spiler represents to the best of its knowledge, that it has compiled with any ordinance or cook affecting the premises as to the installation of bindow guards in apartments in which young chaffen reside. However, this is not intended to the basis for put these not closing and is markly believed for information pur poster.
- 32. At the closing of title hareunder, Seller will deliver to the Purchaser any and all tenant files, credit reports and other decuments and papers relating to residential and commercial occupants in the promises.
- 733. The Saller expensions that the residential rents listed on the annexed schedule have been registered pursuant to the E.T.P.A., as americal and that it is a member in good standing of the Rent Stabilization Astociation. Sellor represents that twill deliver all scriffcases and registrations diesting on the premises at closing of title; that the said testing on the record they parallels under present law! further, nreinless at closing of title; that the said resily on not exceed those parmitted linder present laws/further, that there are no applications, orders, potents or complaints with reference to any of said/rentals or services or equipment pestiling with Juny rental authority or administration or any Court/further, than authority or administration or any Court further, that since the said registrations there have been no diministration of services and equipment and none will be suffered by the Seller until the closing date; and further, that no tenant has been given any concession or consideration for the runtal of any space; and further, that none of the apparents are renied furnished or for professional purposes.
- A variance between the total monthly rental as sot forth in the appeared font roll and that which may be certified by the appropriate agency, shall not be cause for rejection of tiple or reduction of purchase price, provided such variance shall not exceed said total of \$ per month. In the event such variance shall exceed said total sum per month, the purchaser may offer. may alther
- may ofther

 (a) accept the doed to the above pramises without any abatement or reduction in the purchase price and without say cloim of any kind or nature in law, or in equity, against the seller or

 (b) the directager may reached this contract pursuant to the forms contained herein.
- If there are any complaints or proceeding pending for the raduction of any of the remais and if any are filed prior to closing of title, the Seller will comply with and discharge same prior to coner was comply with and discharge same prior to closing at the Seller's own cost and exponent and if and complaints or proceedings are not discharged by the Seller, the Seller is to give to the Parechaser a credit for the cost of such discharge of complaints or proceedings at the closing of title. Seller shall be represented the seller shall be represented. coolings at the closing of title. Seller shall be ponsible for any tent tolinacks or refunds for the
- That none of the tenants has any lease or agreement conferring any rights or artate in the premises and that there are no claims,

counterciains or offsots by any tenant, except as indicated on the rant schedule, and that said bases or agreements, if enty, expire as indicated on said runt schedule are presently in full force and effect without my modifications. Wherever on said schedule there is no indication of a lease, the tenant is a statisticy or monthly tenant; further, that any and all leases in exilicance which have not been exhibited, contain no unusual clauses and all leases contain agreements fully autordinating them to any existing or future mortgage or mortgages in any amounts and on any terms. counterclaims or offsets by any tenant, except as

- 36. All socurities which may have been received by Beller or prodecessor in interest, with regard to any tenant at the premises, together with regate to any renant at the premissa, together wide accruind internat, shall be turned over to the Purchasen and the closting, and the Purchaser shall sign an agreement holding the Soller free from any liability in reference to the securities delivored to the Purchaser. The Seller agrees not to release or return any such societies in whole or in part.
- Seller represents that any rapairs or niterations or equipment to be furnished pursuant to the terms of any lense or morsage agreement will be done or supplied by Soller at Beller's own our before closing. That no demand has been made by any closing. That no demand has been made by any mortgages not insurance company requiring any work to be done on the premises or for additional fire insurance. The Seller agrees to maintain the premises in their present order and repair and to make any old off in the premise of ropicements until closing so as to deliver up the premises in mibitantially their present condition, usual wear and their excepted.
- The Calles sours no union contracts or survice contracts and that Sollin time had no communications during its owner from any labor unions, nor will it enter into tram any labor unions, nor will it enter inly any negotiations or execute any contract with Jabor union between contract and closing, nor by it paid any sums of money to any labor union for union heartill or wolfare in reference to the gamiles, nor him Seller received shy communications to appear at the Sinta Labor Relations Board, secopt or listed herein, to the hereig, to wit:
- 39. The Superintendent of the premises is anid a salary of 5 per month, is a non-union member under Union Contract, and in addition union member uncer throughouse in the premises not received free gas, pecutic (and telephone to the extent of \$. No other or additional compensation is given. Setter further represents that the compensation is not not has been. A tenant of the compensation is given. Salter further represents that the superintendent is not nor has been, a tenant at the building and has never paid rost for the afficiency of the superintendent of the afficiency of the superintendent or any other help is entitled, by reason of past services, shall be adjusted of the closing computed from; if there be any pending tegrafishing with any union or with any service contract holder which may involve remodule increases in pay or rates, the Seller is to reinhurse the further of the amount thereof up to the closing days. Salter is to be responsible for possion and र्यक्राट व दिवसीस
- That if there is an all burner on the normises, all necessary-potentias and in necessary-potentias and spirovals, including a Certificate of Operation have been issued and are currently in offect, and the holier or humar is in good operating condition and uses No. 完好. 2 011.

- Saller will not remove any supplies won the premises which are used in or equip connection with the operation of the building.
- 42. Sellor represents that any covenants or restrictions to which Purchaser takes title do not provide for forteiture ar revertor, in the event of violation (hejean), nor do they impase my restriction on alteration or demolition of any improvements on the premises.
- 43. Seller will supply appropriate non-foreign affidavit pursuant to Section 1445 of the internal Revenus Code as Antended, sufficient to provide an exemption under Subdivision (b) thereof, or if Soller is a foreign person under the terms of such Code, to comply with the provisions decreat,
- Seller represents that there are no 44. Settler represents that there are no pending harastment proceedings hefere any administrative agency or any court of competent juradiction, and that there have been no harassments filed against the property prior to two (2) years from the date of this Control.
- 45. Purchaser about have reasonable necess to the premises during the term of this Contract.
- bulk storage of petrolenin at the subject prenises; it will deliver an oppropriate affidavit to that office/at the closing, or if one exists, Seller will deliver a Cardificate of Registration of the oli storage/tank from the D.B.C.
- Seller shall deliver at the time of closing all bills, concelled checks and confracts for the installation of new windows, new boller and new front doors.

48. In the event soller has filed protests with relation to the assessed valuation of the property for tex purposes and instituted certifarth proceedings for reduction of such valuation and a reduction of taxes shall result, saller shall by entitled to callete retunds representing reductions for oil years prior to and including the tax year, the year to be appointed as of data of title closing. In the event of radund or rounission of taxes, all expenses including legal logs shall first be deducted and the balance thereof shall be apportioned between the parties to of date of title closing and the purchases shall pay its share thereof upon sich refund or remission. This clause shall survive delivery of the dead.

49. A reduction in the principal balance of the existing ploringage by payments of seller of regular installments due under said moranage between the dyle of this contract and the classing of title shell be failed by purchaser to sollor, in each, at tips of clossing, as an adjustment and in addition to the purchase price herein.

O. Any and all arrears due to the seller under the Maximum Base Rent Orders and/or Rapt Stabilisation Regulations shall be collected by the purelymer and paid to the seller by the purelymer and paid to the seller by the purchaser from the first renus collected by the purchaser from the respective tenants. Seller will familia purchaser with psechedule of such arrears, if available, at closing of

may

Any and all notices herein # \$1. through the respective attorneys representing the seller and purchaser

52. The downpayment made hereituder shall be held in escrew by anormays for seller(s), as Seller's agent (the "Escrew Agent") until (a) the closing of title at which time the ascrew hinds shall be distanted to or on behalf of Seller without further authorization or (b) the especiation of this contract in accordance with the terms hereof, in which event the downpayment shall be disbursed in accordance with the terms of this contract. Seld-downpayment will be deposited in the atterment which is an IOLA account (see interest credited to Seiler or

The parties reknow/side and agree that the Escrow Agent is holding the escrow funds for the convenience of the parties and Seller and Purchaser agree to indemnify md hold the Estrow Agent harmless, except for its willful misicasance, from any and all claims or demages, including, but not limited to, court coats, interest, losses and/or expenses, including legal fees, incurred by Escrow Agent as a result of the escrow.

It is agreed that the duties of the Bacrow Agent are only such as are herein specifically

provided, being purely ministerial in nature and that provided, being purely ministerial in nature and that the Escrow Agent shall incire no lishifity whetever as long as the Encrow Agent has acted in good fifth. The Escrow Agent shall not be required to defend any legal proceeding which may be instituted against the Escrow Agent which may be instituted against the Escrow Agent with respect to the subject matter of the Instructions contained bordin and shall not be obligated to institute legal proceedings of any kind. The Resrow Agent is nationally of the title to the Secrow Agent is abligated to allow the source fund or as to whom that fund is to be delivered, the Recrow Agent is the deliver to collected to make any delivery of the fund, but in such event may hold the Rerow Agent will not be obligated to make any delivery of the fund, but in such event may hold the fund that if receipt by the Escrow Agent of an authorization, in writing, signed by all petrone having an interest in such dispute or their atterneys directing the disposition of the num or, in the absence of such authorization, the Escrow Agent may hold the suntil the final determination of the rights of the parties in an appropriate proceeding. Further, in the event a disputic shall arise as to the disposition of all or any portion of the escrow funds, the Escrow Agent, at (is election, shall have the right to deposit the carrow funds with a court of compatent jurisdiction and thereafter be dispharged from any responsibility or liability as Escrew Agent.

/i I

358 BROADWAY -FRANKLIN ACQUISITION, LLC SELLER(S):

BROADWAY LLC

\$ 7

THIRD RIDER ANNEXED HERETO AND FORMING PART OF CONTRACT OF SALE BETWEEN 358 BROADWAY LLC, AS SELLER, AND 358 BROADWAY-FRANKLIN ACQUISITION LLC PURCHASER, AFFECTING PREMISES LOCATED AT 358 BROADWAY NEW YORK, NEW YORK

Seller makes the following representations all of which shall be true, accurate and complete as of the date hereof and the closing date and shall survive closing for 1 year:

- I. Exhibit "B" annexed hereto accurately sets forth all agreements (the "Leases") in force for the use, lease and occupancy of space at the Premises together with all modifications and amendments thereof. Except as set forth on Exhibit "B" all Leases are valid, enforceable and in full force and effect without default by Seller or Tenant, except the store lease to RJH Fashion Corp. ("RJH").
- 2. All rents under the Leases are legal rents and there are no arrearages in payment of rent or additional rent, except RJH.
- No Tenant has paid rent for than one (1) month in advance and no Tenant has the right to or claimed the right to free rent, rent concessions, rebates, abatements or similar benefits and/or allowances except as set forth in rent roll.
- 4. No Tenant has claimed or asserted any defenses, counterclaims, set-offs or offsets against the rent.
 - 5. Seller has no obligation to do any work under the Leases.
- 6. No renewal, extension or expansion options have been granted to any Tenant and no Tenant has any option, right of first refusal or other preferential right to purchase or lease the Premises or any part thereof.
- 7. There is no pending or threatened litigation or proceeding with respect to the ownership use and/or operation of the Premises, except for personal injury action entitled <u>James Waitus v. 358 Broadway LLC</u>, et al., pending in the Supreme Court, New York County, Index No. 1245361/02, being defended by Seller's insurance carrier.
- 8. There are no brokerage agreements, commissions, fees or the like with respect to the leases which have not been paid in full.
- 9. Annexed hereto as Exhibit "C" is a true and accurate list of all service and maintenance agreements affecting the Premises.
- 10. Annexed hereto as Exhibit "D" is a true and accurate list of all insurance carried by Seller which will be kept in full force and effect through closing.
- 11. Annexed hereto as Exhibit "E" is a true and complete list of all employees at the Premises and their full compensation and benefits. No employee is a union employee.
- 12. Annexed hereto as Exhibit "F" is a true copy of the permanent certificate of occupancy which will be in full force and effect on the closing.
 - 13. There are no pending or contemplated condemnation proceedings.
- 14. Except set forth on annexed schedules, there exist no violations of laws affecting the Premises and Seller will comply with all laws, rules and regulations affecting the Premises between the date hereof and closing.

- 15. Between the date hereof and closing, Seller shall maintain and keep the Premises, including mechanical equipment, in good condition and repair.
- 16. There are no tax certiorari proceedings pending except as set forth on Exhibit "G" which will not be settled or compromised without the consent of Purchaser, which consent may not be unreasonably withheld or delayed.
- 17. Between the date hereof and closing Seller shall operate and maintain the Premises in compliance with all applicable federal, state and municipal laws, rules and regulations.
- 18. Soller will request any existing mortgage holder to assign its mortgage to Purchaser's mortgage lender at the closing.
- 19. After May 15, 2005 Purchaser may record a memorandum of this Agreement provided that (1) Purchaser has delivered the second \$1,000,000.00 downpayment to Seller's attorney and such deposit has cleared, and (2) prior to such filing Purchaser execute and deliver a Termination and Cancellation thereof in recordable form to Seller's attorney in escrow who may file same upon five (5) days' notice if Purchaser is in default of any of its obligations hereunder or if this Contract is terminated for any reason, except for Seller's willful default hereunder.
- 20. Sciler will deliver at closing tenant estoppel certificates in the form annexed hereto as Exhibit "H" from at least 65% of the tenants at the Premises dated no more than thirty (30) days prior to closing. The other 35% shall be signed by Sciler.

358 BROADWAY LLC

Purchaser:

250 BROADWAY-FRANKLIN ACQUISETION LLC

والمحاجب



First American Title Insurance Company of New York

Title No. 3008-70953

SCHEDULE "A"

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Broadway distant 117 feet 3 inches northerly from the corner formed by the intersection of the northerly side of Leonard Street and the easterly side of Broadway;

RUNNING THENCE easterly on a line which on its northerly side forms an angle of 89 degrees 49 minutes 50 seconds with the easterly side of Broadway, 175 feet 1 3/4 inches to a point on the westerly side of Benson Place distant 117 feet 5 inches northerly from the northwesterly corner of Leonard Street and Benson Place;

THENCE northerly along the westerly side of Benson Place 32 feet 4 1/4 inches to the rear line of said Benson Place;

THENCE easterly and along the said rear line of Benson Place 24 feet 8 3/4 inches to the easterly wall of the 5 story and basement brick building known as and by the street number 59 Franklin Street;

THENCE northerly along the said easterly face of said easterly wall of said building 51 feet 4 1/4 inches to the southerly side of Franklin Street;

THENCE westerly along the southerly side of Franklin Street, 84 feet 10 3/4 inches to a point in the easterly face of the easterly wall of the building on premises adjoining on the West known as and by the street number 67 Franklin Street;

THENCE southerly and along the said easterly face of the said easterly wall of said building 56 feet 1 inch to a point in the northerly face on the northerly wall of the building known as and by the street number 358 Broadway;

THENCE westerly and along the northerly face of said northerly wall of said building 115 feet 1/4 inch to the easterly side of Broadway;

THENCE southerly along the said easterly side of Broadway 28 feet to the point or place of BEGINNING.

THE policy to be issued under this report will insure the title to such buildings and improvements erected on the premises, which by law constitute real property.

FOR CONVEYANCING ONLY: TOGETHER with all the right, title and interest of the party of the first part, of in and to the land lying in the street in front of and adjoining said premises.

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ALAN ROSEN (212) 594-6066 358 BROADWAY LLC RENT ROLL REPORT MARCH 2005 CONTACT:

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358 BRODWAY LLC **LEASE EXPIRATIONS** 2005

UNIT	NAME	EXPIRATION DATE	LEASE AMT @ EXPIRATION
B5	ORLY EVEN	5/31/05	\$947
B8	B. VALENTRA	5/31/05	\$660
B9	R. SCHALLER	5/31/05	\$772
205	PAT WIESEL	5/31/05	\$1,088
STUDIO 1 203	FREDDIE NG FREDDIE NG	6/30/05 6/30/05	XXXX \$882
B7	WENDY NGUYEN	7/31/05	\$470
208	HAMPTON FILM FESTIVAL	7/31/05	\$1,26 9
STUDIO 8	RAY GENTILE	8/14/05	\$550
202	LEVY	9/30/05	\$1,040
ЗА	WEBSTER	10/31/05	\$4,300
B2	SUGA INC.	12/31/05	\$1,311

358 BRODWAY LLC **LEASE EXPIRATIONS** 2006

UNIT	NAME	EXPIRATION DATE	LEASE AMT @ EXPIRATION
B6	ART START	1/31/06	\$600
STUDIO 6	RI VAN NGUYEN	1/31/06	\$550
212	K. LOUIE	5/31/06	\$1,250
5R	OXER (NAIDICH LAB)	7/31/06	\$4,835
STUDIO 2	FAUSTI	8/31/06	\$447
214	PARRY/DUNEA	9/30/06	\$1,250

SERVICE CONTRACTS 358 BROADWAY LLC AS OF 3/20/05

METRO PEST CONTROL 70-09 73RD PLACE GLENDALE, NY 11385 (TEL) 718-803-0000 EXTERMINATING

ONE YEAR CONTRACT EXPIRES 9/05 \$230.29 PER MONTH

UNITED ELEVATOR CO. 3-02 44TH AVE LIC, NY 11101 ELEVATOR

\$1,144.97 PER QUARTER ONE YEAR CONTRACT EXPIRES 9/05

Schedule of Insurance

[Soller agrees to supply this trubit to Porchase on or prior to April 11, 2005]

H

DAREK KALINSKI SS#: 120-86-1347 WEEKLY PAY: \$600

....

MEDICAL COST: \$3,750 PER YEAR

358 BROADWAY LLC EMPLOYEE AS OF 3/20/05

SUPER- LIVE OUT "AT WILL EMPLOYEE"

THE CITY OF HIM YORK



DEPARTMENT OF BUILDINGS CERTIFICATE OF OCCUPANCY

BGFOUGH

MANUATTAN

DATEL: 12 2000

NO. 101094735

This certificate supersedes . O. NO

ZONING DISTRICT C6-4

This CERTIFIES that therese—altered—existing—relating—relating—relating block
59 FRANKLIN STREET
Block

Block 171

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358 Broadway LLC 358 Broadway New York, New York

Brill & Meisel has filed tax certiorari petitions for 358 Broadway LLC, owner of the property located at 358 Broadway (block 171, lot 5), New York, New York, for the tax years 2001/02, 2002/03, 2003/04 and 2004/05 with the Supreme Court of the State of New York. These petitions, requesting reductions in the real estate assessments for 358 Broadway, remain open.

EXHIBIT "H"

TENANT ESTOPPEL CERTIFICATE

		_	, 2005
		~	•
		· · · · · · · · · · · · · · · · · · ·	
	Re:	Property known as	, New York, New York (the "Premises");
		Lease dated	between (hereinafter, "Landlord")
		and modified, amended, su	(hereinafter, "Tenant") (as the same may have been applemented or assigned, the "Lease")
~	G! . A.f.		
Dear	Sirs/Ma	adames:	
	Tenai	nt, as a tenant in the Premi	ses pursuant to the Lease, hereby certifies to you as follows:
1.			cations, amendments, supplements and assignments listed and is in full force and effect as of the date hereof:
2.	requi		to be performed by Landlord have been satisfied and all lord, if any, to Tenant on account of Tenant's improvements
3.		Lease represents the entire ng of the demised premise	agreement between Tenant and Landlord with respect to the s described therein.
4.		the lesse is nas taken full possession a	Tenant has accepted the demised premises and occupancy.
5.	enfor no kr	rccment of the Lease by Lar	no existing defenses or offsets which Tenant has against the adlord, there exist no defaults under the Lease and Tenant has of any event which, with the giving of notice, the passage of such a default.

Tenant is not entitled to any credits, offsets, abatements or deductions against or in respect of the rent payable under the Lease. There are no free rent periods or other concessions

under the Lease.

6.

7. The amount of the security deposit presently held by Landlord us S The Lease is a large subordinate	
8. The fixed rent payable under the Lease is \$ per annum, advance, and such fixed rent has been paid through been paid more than thirty (30) days in advance of the dre-detections of	payable monthly in _, 2005. N o rent ha s
9. The Lease provides for the following rent escalations or additional percent or payments, all of which have been paid by Tenant to the date hereof:	
10. The Lease expires on and the Lease provides for the options:	following renewal
11. There are no notions or proceedings, whether voluntary or involuntary or invo	
 This certificate may be relied upon by you and your successors ar mortgagee or prospective mortgagee of the Premises. 	nd assigns and any
Very truly yours,	
By:	· · · · · · · · · · · · · · · ·

FIRST AMENDMENT TO CONTRACT SALE DATED APRIL 4, 2005 BETWEEN 358 BROADWAY-FRANKLIN ACQUISITION, LLC AS PURCHASER

RECITALS

- A. 358 Broadway LLC ("Seller") and 358 Broadway-Franklin Acquisition LLC ("Purchaser") entered into Contract of Sale dated April 4, 2005 (the "Contract").
- B. Purchaser and Seller wish to make certain modifications to the Contract.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

- Paragraph 23 of the Contract is hereby deleted in its entirety and replaced with the following:
 - Due Diligence Period: Purchaser shall be afforded a period through June 23. 13, 2005 ("Due Diligence Period"), to inspect the Premises and all filings and reports with respect thereto. At any time during the Due Diligence Period, Purchaser shall have the right to cancel this Contract upon written notice ("Cancellation Notice") and to receive a refund of a portion of the Initial Downpayment as set forth below. In the event Purchaser elects to cancel this Contract during the Due Diligence Period or if Purchaser does not give Seller written notice of its intention to go forward with this Contract (a "Waiver Notice") and does not deliver to Seller's attorney the second \$1,000,000 downpayment, Purchaser shall be deemed to have terminated this Contract and Seller's sole obligation shall be to refund a portion of the Initial Downpayment to Purchaser as set forth below, after which this Contract will be deemed null and void and of no further force and effect. Notwithstanding anything contained herein to the contrary, (a) if Purchaser delivers a Cancellation Notice on or before May 31, 2005, \$950,000 of the Initial Downpayment shall be returned to Purchaser and \$50,0000 of the Initial Downpayment shall be delivered to Seller as a payment for its agreement to this Contract Amendment, (b) if Purchaser shall deliver a Cancellation Notice after May 31, 2005 but on or before June 13, 2005, 5900,000 of the Initial Downpayment shall be returned to Purchaser and \$100,0000 of the Initial Downpayment shall be delivered to Seller as a payment for its agreement to this Contract Amendment and (c) if Purchaser shall not deliver (i) a Waiver Notice to Seller and (ii) the second \$1,000,000 downpayment to Seller's attorney by the expiration of the Due Diligence Period, \$900,000 of the Initial Downpayment shall be returned to Purchaser and \$100,0000 of the Initial Downpayment shall be delivered to Seller as a payment for its agreement to this Contract Amendment

- Except as modified hereby, the Contract is unchanged and shall remain in full 2. force and effect.
- This First Amendment of Contract of Sale may be executed in counterparts and 3. facsimile counterparts hereof shall be effective for all puposes.

IN WITNESS WHEREOF, the parties hereto have set their hands to this First Amendment of Contract of Sale as of the 13th day of May, 2005.

SELLER:

358 BROADWAY LLC

PURCHASER:

358 BROADWAY-FRANKLIN ACQUISITION, LLC

May-16-95 O1:01pm From-Alter Mantel LLP

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T-030 P.005/005 F-72

Except as modified hereby, the Contract is unchanged and shall remain in full force and effect.

This First Amendment of Contract of Sale may be executed in counterparts and facsimile counterparts hereof shall be effective for all puposes.

IN WITNESS WHEREOF, the parties hereto have set their hands to this First Amendment of Contract of Sale as of the 13 day of May, 2005.

SELLER:

2.

358 BROADWAY LLC

Ву:_____

PURCHASER:

358 BROADWAY-FRANKLIN ACQUISITION, LLC

By:

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SECOND AMENDMENT TO CONTRACT SALE DATED APRIL 4, 2005 BETWEEN 358 BROADWAY LLC AS SELLER AND 358 BROADWAY-FRANKLIN ACQUISITION, LLC AS PURCHASER

RECITALS

- 358 Broadway LLC ("Scller") and 358 Broadway-Franklin Acquisition LLC Α. ("Purchaser") entered into Contract of Sale dated April 4, 2005 (as amended by First Amendment to Contract, the "Contract").
- Purchaser and Seller wish to make certain modifications to the Contract. В.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

- 1. Paragraph 23 of the Contract is hereby deleted in its entirety and replaced with the following:
 - Due Diligence Period: Purchaser shall be afforded a period through July 23. 11, 2005 ("Due Diligence Period"), to inspect the Premises and all filings and reports with respect thereto. At any time during the Due Diligence Period, Purchaser shall have the right to cancel this Contract upon written notice ("Cancellation Notice") and to receive a refund of a portion of the Initial Downpayment as set forth below. In the event Purchaser elects to cancel this Contract during the Due Diligence Period or if Purchaser does not give Seller written notice of its intention to go forward with this Contract (a "Waiver Notice") and does not deliver to Seller's attorney the second \$1,000,000 downpayment, Purchaser shall be deemed to have terminated this Contract and Seller's sole obligation shall be to refund a portion of the Initial Downpayment to Purchaser as set forth below, after which this Contract will be deemed null and void and of no further force and effect. Notwithstanding anything contained herein to the contrary, until such time as a Waiver Notice and the second \$1,000,000.00 downpayment have been delivered:
- (a) if Purchaser delivers a Cancellation Notice on or before June 13, 2005, \$900,000 of the Initial Downpayment shall be returned to Purchaser and \$100,0000 of the Initial Downpayment shall be delivered to Scllcr as a payment for its agreement to enter into this Second Amendment to Contract of Sale;
- (b) if Purchaser has not delivered a Cancellation Notice by June 13, 2005. Escrow Agent is authorized and directed to deliver to Seller the sum of \$100,000.00 from the Initial Downpayment.;

- if Purchaser shall deliver a Cancellation Notice after June 13, 2005 but on (c) or before June 27, 2005, a portion of the balance of the Initial Downpayment in the amount of \$50,000.00 shall be delivered to Seller and the balance of \$850,000.00 shall be returned to Purchaser;
- (d) if Purchaser has not delivered a Cancellation Notice by June 27, 2005. Escrow Agent is authorized and directed to deliver to Seller the sum of \$50,000.00 from the Initial Downpayment, as previously reduced:
- (e) if Purchaser shall deliver a Cancellation Notice after June 27, 2005 but on or before July 11, 2005, a portion of the balance of the Initial Downpayment in the amount of \$50,000.00 shall be delivered to Seller and the balance of \$800,000.00 shall be returned to Purchaser; and
- (f) if Purchaser shall not deliver (i) a Waiver Notice to Seller and (ii) the second \$1,000,000 downpayment to Seller's attorney by the expiration of the Due Diligence Period, a portion of the balance of the Initial Downpayment in the amount of \$50,000.00 shall be delivered to Seller and the balance of \$800,000.00 shall be returned to Purchaser.
- 2. At Closing, (X) if Purchaser has delivered a Waiver Notice and the second \$1,000,000 Downpayment on or before June 27, 2005, the reference to "\$2,000,000.00" in line (a) of Schedule C to the Contract shall be deemed to be replaced with "\$1,950,000.00" and the reference to "\$15,500,000.00" in line (b) of Schedule C to the Contract shall be deemed to be replaced with "\$15,550,000.00" and (Y) if Purchaser has delivered a Waiver Notice and the second \$1,000,000 Downpayment after June 27, 2005 but on or before July 11, 2005, the reference to "\$2,000,000.00" in line (a) of Schedule C to the Contract shall be deemed to be replaced with "\$1,900,000.00" and the reference to "\$15,500,000.00" in line (b) of Schedule C to the Contract shall be deemed to be replaced with "\$15,600,000.00".
- 3. In the event that Purchaser shall deliver a Waiver Notice and the second \$1,000,000.00 Downpayment, Purchaser and Seller agree to execute and deliver to each other a letter confirming the date upon which such deliveries were made and the deemed amounts of lines (a) and (b) of Schedule C to the Contract.
- By his signature below, Jerry Jacobs, a principal of Seller, guarantees payment to 4. Purchaser of those portions of the Initial Downpayment released to Seller hereunder, under those circumstances pursuant to which Purchaser is entitled to a return of the Downpayment under this Contract other than pursuant to Paragraph 23 of the Contract.

- 5. Except as modified hereby, the Contract is unchanged and shall remain in full force and effect.
- 6. This Second Amendment of Contract of Sale may be executed in counterparts and facsimile counterparts hereof shall be effective for all purposes.

IN WITNESS WHEREOF, the parties hereto have set their hands to this Second Amendment of Contract of Sale as of the 10^{th} day of June, 2005.

SELLER:

358 BROADWAY LLC

PURCHASER:

358 BROADWAY-FRANKLIN ACQUISITION, LLC

By:_

PAYMENT OF RELEASED PORTIONS OF INITIAL DOWNPAYMENT TO PURCHASER GUARANTEED PURSUANT TO PARAGRAPH 4 ABOVE:

Jerry Jacobs

CMM-comments and Section-Design (a) Designment of Comments of the Section 118 April 1988 Breakway beam interesting the Action 118 April
BRILL&MIESEL

PAGE 03/05

THIRD AMENDMENT TO CONTRACT OF SALE DATED APRIL 4, 2005 BY AND BETWEEN 358 BROADWAY, LLC ("SELLER") AND 358 BROADWAY-FRANKLIN ACQUISITION, LLC ("PURCHASER")

WHEREAS, Seller and Purchaser entered into an Agreement dated April 4, 2005 with respect to the sale of premises located at 358 Broadway a/k/a 59 Franklin Street, New York, New York ("Premises"), as amended by a First Amendment to the Contract of Sale dated May 13, 2005 and a Second Amendment to the Contract of Sale dated June 10, 2005 (collectively, "Contract");

WHEREAS, Purchaser and Seller wish to make certain further modifications to the Contract.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the parties hereby agree as follows:

- Paragraph 25(d) of the Contract is hereby amended by deleting the second 1. sentence thereof and replacing same with the following: "Seller will cooperate with Purchaser to obtain surrender agreements relating to the possession of portions of the Premises presently occupied by commercial tenants by making introductions and facilitating discussions between Purchaser and its representatives with representatives of the various commercial tenants from time to time."
- Escrow Agent is hereby specifically directed and authorized to release the 2. sum of \$250,000.00 from the Downpayment and pay same to Seller upon the execution of this Agreement. Said sum shall no longer be required to be held in escrow for the benefit of the parties pursuant to the terms of the Contract. Additionally, if Escrow Agent is notified to do so in writing by Purchaser in accordance with the terms of the Contract, Escrow Agent is hereby specifically directed and authorized to release the additional sums of \$250,000.00 each from the Downpayment and pay same to Seller on August 23, 2006 and

2124866587

pursuant to the terms of the Contract.

05/23/2006 13:27

PAGE 04/05

BRILL&MIESEL

November 23, 2006, which sums also shall no longer be required to be held in escrow by Escrow Agent for the benefit of the parties pursuant to the terms of the Contract. Additionally, if Escrow Agent is notified to do so in writing by Purchaser in accordance with the terms of the Contract, Escrow Agent is hereby specifically directed and authorized to release to Seller the additional sum of \$300,000.00 on February 23, 2007 which sum also shall no longer be required to be held by Escrow Agent for the benefit of the parties

Purchaser and Seller hereby each jointly and severally indemnify and hold Escrow Agent harmless for any release(s) of any portion(s) of the Downpayment to Seller made in conformity with the terms of this Paragraph 2 of this Third Amendment to the Contract.

- in addition to any sums due under the Contract and not in lieu thereof, 3. Purchaser agrees to pay to Seller the sum of \$25,000.00 and Purchaser shall pay to Seller's attorneys, Brill & Meisel, the sum of \$1,000.00 simultaneously with the execution of this Third Amendment to the Contract. Additionally, Purchaser agrees in its sole discretion to make additional monthly payments of \$10,000.00 each and every month to Seller on the 22nd day of each month commencing June 22, 2006 and terminating October 22, 2006 which additional payments shall not be considered a portion of the Price and shall not credited against same or any portion thereof.
- Paragraph 25(c) of the Contract is hereby amended to replace the words "ten 4. (10) days" with "five (5) days" in the first line of the first sentence thereof and by adding the following sentence at the conclusion of the first sentence of the first paragraph thereof: "Any such payment not made within said five (5) days of the due date thereof and after the transmittal of a bill therefor, shall be subject to a penalty of two (2%) per cent per month for each month or any portion thereof in which said amount remains unpaid which penalty. together with the amount of said bill, shall be due and owing from Purchaser to Seller."

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BRILL&MIESEL

PAGE 05/05

5. Except as modified herein, all of the terms and conditions of the Contract remain in full force and effect. All capitalized terms herein shall have the exact same meaning as in the Contract.

Dated: New York, New York May 23, 2006

SELLER:

358 BROADWAY, J

Manager

PURCHASER:

358 BROADWAY-FRANKLIN LLC

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ASSIGNMENT OF CONTRACT

THIS ASSIGNMENT OF CONTRACT ("Assignment") made this 30th day of April, 2007, between 358 BROADWAY LLC ("Assignor"), to Joel Rosen, Mark Bortnick, Mitchell Penberg, Robert J. Rosen and Alan I. Rosen ("Assignee").

Assignor assigns its rights under a certain Contract of Sale dated April 4th 2005, as amended ("the Contract") by and between 358 BROADWAY LLC, as Seller and 358 BROADWAY-FRANKLIN ACQUISITION, LLC, as purchaser, for the sale of 358 Broadwaya/k/a 59 Franklyn Street, New York, New York ("Premises"), its rights to sell a 10% undivided interest to Joel Rosen, a 5% undivided interest to Mark Bortnick, a 5% undivided interest to Mitchell Penberg, a 1.25% undivided interest to Robert J. Rosen, and a 1.25% undivided interest to Alan I. Rosen.

Assignor retains holds a 77.50% undivided interest in the Premises and the Contract.

IN WITNESS WHEREOF, Assignor has duly executed this Assignment as of the date first above written.

By:
Joel Rosen, Manager
- hold
Joel Rosen, Assignee
Mark Bortnick, Assignee
By:
Mitchell/Penberg, Assignee
By: Joel Rosen, his attorney- in- fact
Joel Rosen, his attorney- in- fact
Robert J/Roson, Assignee
Ву:
Joel Rosda, bys attorney- in- fact
Alan I. Rosen, Assignee

358 BROADWAY LC, Assignor